

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, ) Case No.  
 ) 4:15-CR-6049-EFS-21  
Plaintiff, )  
 ) March 26, 2019  
v. ) Richland, Washington  
 )  
MIGUEL REYES GARCIA (21), ) Sentencing Hearing  
 )  
Defendant. ) Pages 1 to 42

BEFORE THE HONORABLE EDWARD F. SHEA  
SENIOR UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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1 (March 26, 2019; 2:17 p.m.)

2 THE COURTROOM DEPUTY: Please rise.

3 (Call to Order of the Court.)

4 THE COURT: Good afternoon. Please be seated.

02:17:35 5 THE COURTROOM DEPUTY: Matter before the Court is *United*  
6 *States of America v. Miguel Reyes Garcia*, Cause  
7 No. 4:15-CR-6049-EFS, Defendant No. 21. Time set for sentencing  
8 hearing. Defendant is being assisted by a federally certified  
9 interpreter, Carolina Hickey.

02:17:57 10 Counsel, please state your presence for the Court and  
11 record.

12 MS. VAN MARTER: Stephanie Van Marter and Caitlin  
13 Baunsgard on behalf of the United States. Good afternoon.

14 THE COURT: Good afternoon.

02:18:05 15 MR. THERRIEN: Good afternoon, Your Honor. Ken Therrien  
16 for Miguel Reyes Garcia.

17 THE COURT: Good afternoon.

18 Mr. Reyes Garcia, good afternoon.

19 Ms. Van Marter.

02:18:13 20 MS. VAN MARTER: Your Honor, the United States has had  
21 the opportunity to review the presentence investigation report,  
22 as well as the defendant's objections and sentencing memorandum  
23 at ECF 1169. The United States has filed its sentencing  
24 memorandum at 1176. This was a case where there was no plea  
02:18:39 25 agreement. The defendant pled the morning of scheduled trial.

1           However, there does not appear to be a dispute as to the  
2           Base Offense Level of 38 and minus only two points for the  
3           limited acceptance of responsibility, resulting in an Adjusted  
4           Offense Level of a 36 with an applicable guideline range of 188  
02:19:05 5           to 235 months.

6           THE COURT: So 15, a little over 15 years to almost 20  
7           years.

8           MS. VAN MARTER: Correct.

9           THE COURT: Okay.

02:19:17 10          MS. VAN MARTER: The United States in this case, Your  
11          Honor, is recommending --

12          THE COURT: Excuse me. When I say that, that is the  
13          advisory guideline sentence.

14          MS. VAN MARTER: That is the advisory guideline  
02:19:25 15          sentence, Your Honor.

16          THE COURT: Which is not binding on the Court.

17          And the statutory maximum is what?

18          MS. VAN MARTER: Life.

19          THE COURT: Life in prison.

02:19:31 20          MS. VAN MARTER: With a mandatory minimum of ten years.

21          THE COURT: Okay.

22          MS. VAN MARTER: Your Honor, the United States has, in  
23          its sentencing memorandum, recommended a sentence of 15 years,  
24          which, in this particular case, would be the second highest  
02:19:48 25          sentence recommended and/or potentially imposed by this Court to

1 related co-defendants in this overall drug trafficking  
2 organization.

3 THE COURT: Who was the -- what was the higher -- what's  
4 the highest I've given at this point?

02:20:02 5 MS. VAN MARTER: It has been Jese Casillas, who has  
6 certainly been deemed as the most culpable amongst of the  
7 defendants before this Court, and the Court imposed a sentence  
8 of 25 years for Mr. Casillas. Mr. Casillas also pled without a  
9 plea agreement from the United States; however, he did plead  
02:20:20 10 earlier than this particular defendant.

11 This particular defendant, along with one other  
12 co-defendant, pled the morning of scheduled trial. If the Court  
13 recalls, that would have -- I believe it was October 10th. We  
14 were all trial-ready set, and a jury had been brought to the  
02:20:36 15 building, and we were advised that morning.

16 THE COURT: Mr. Farias, represented by Mr. Schweda, was  
17 the other.

18 MS. VAN MARTER: That's correct, Your Honor.

19 THE COURT: Yeah.

02:20:45 20 MS. VAN MARTER: That was the second time that this  
21 defendant had come before this Court with an attempt to accept  
22 responsibility. The first time was a rather lengthy plea  
23 colloquy that did not end up in a resolution before this Court.

24 THE COURT: It did not because he wouldn't admit his  
02:21:00 25 culpability.

1 MS. VAN MARTER: That is correct. That is correct, Your  
2 Honor.

3 So in looking at the totality of the factual  
4 circumstances before the Court, and I know the Court recalls the  
02:21:08 5 facts well, there were a number of hearings, factual hearings  
6 pertaining to the events associated with this particular  
7 defendant, of those facts that are significant, aside from the  
8 quantity of narcotics that were involved by this organization  
9 and backpacking across into Canada these quantities -- and as  
02:21:25 10 the Court also knows, the RCMP also was a partner in this  
11 investigation with the FBI task force here in the Tri-Cities --  
12 that this particular defendant was identified as an individual  
13 who was tasked to go along on this trip in order to try and  
14 determine what had happened to previous drug debt funds.

02:21:46 15 To the United States, that is a significant factor  
16 because it does go to the defendant's scope of knowledge and  
17 participation in this overall endeavor. In fact, of the  
18 backpackers who were present and caught on that particular trip,  
19 I would hold this defendant as the most culpable amongst the  
02:22:03 20 others who were present. The others played a role consistent  
21 with those being recruited to do these backpacking trips. They  
22 were paid a nominal fee. They were given less information;  
23 certainly their scope and knowledge of the overall organization  
24 was not significant or sophisticated. They were often recruited  
02:22:23 25 straight from field jobs or field work in order to do the

1 backpacking.

2 This particular defendant was tasked to -- to tag along  
3 in order to try and find out what was going on with some debt  
4 that had been previously owed. It is also consistent with his  
02:22:36 5 role that his fingerprints were located on some of the narcotics  
6 packages that were found in the hotel room after they had been  
7 unloaded.

8 THE COURT: Yeah, I think it's important to remind me --  
9 I remember the event well because it's been the subject of other  
02:22:53 10 sentences, and that is, the Canadian stop and arrest and the  
11 hotel itself and what was found in the hotel and who was there.  
12 And there were Canadian fingerprint testing of packages;  
13 18 kilograms of methamphetamine, which is a substantial amount  
14 of methamphetamine, and his fingerprints were on the packages.  
02:23:19 15 That is, Defendant Reyes Garcia.

16 MS. VAN MARTER: Correct.

17 THE COURT: And so there's physical evidence of him in  
18 the hotel room and of this material being seized both in the car  
19 and in the hotel room; is that right?

02:23:36 20 MS. VAN MARTER: That is correct.

21 THE COURT: Okay. So let me see here for a second.

22 MS. VAN MARTER: The bulk of the narcotics were found, I  
23 believe, in the vehicle. If the Court recalls from the  
24 suppression hearing, after the backpackers got into Canada, they  
02:23:48 25 were picked up, and there was a period of time where they went



1 to a hotel, and there was actually surveillance at the hotel.

2 THE COURT: That's right.

3 MS. VAN MARTER: This defendant was located still inside  
4 of the hotel room, while several of the other defendants were  
5 located during the course of a traffic stop.

6 THE COURT: Right. But the reasonable inference on the  
7 evidence is that they were all picked up having crossed the  
8 Canadian border from the United States with a huge -- well, a  
9 significant amount of drugs, including methamphetamine, cocaine,  
10 and heroin. And 18 kilograms is a significant quantity of  
11 methamphetamine --

12 MS. VAN MARTER: That is correct, Your Honor.

13 THE COURT: -- on which his fingerprints were found on  
14 packages.

15 MS. VAN MARTER: And there were also additional  
16 witnesses who identified the defendant as traveling with them  
17 for the purposes I've already indicated: to try and track down  
18 what had happened to some previous -- a previous shipment or a  
19 debt that had been accumulated. And so he was tasked, for lack  
20 of a better word, to baby-sit this load.

21 THE COURT: In addition to that stop in British  
22 Columbia, are there other confidential sources or undercover  
23 agents whose evidence in the file indicates his -- his  
24 involvement with other distribution activities?

25 MS. VAN MARTER: That is correct, Your Honor. As we

1 indicated in our memorandum, there are two additional  
2 cooperating individuals who knew the defendant back in 2015 and  
3 '16 who was engaged in negotiations about having what is  
4 referred to in -- in the drug trafficking, I don't know, world  
02:25:23 5 as "a line." So they identify themselves as having a line; that  
6 is, a line of transportation that they can get the product from  
7 Mexico through the United States and, in this case, up and into  
8 Canada.

9 That was one of the things that Mr. Calvillo, as well as  
02:25:39 10 others whom the defendant was associated when Mr. Calvillo first  
11 developed the line into Canada, one of the things that elevated  
12 them in status, is that they had a new line, an ability to  
13 transport large quantities into Canada for sale. And several  
14 organizations would then want to take part in adding their  
02:25:56 15 shipments in with others in order to take advantage of the  
16 method of transportation into Canada.

17 This particular defendant was identified as engaging in  
18 those types of conversations, as well as his participation in  
19 the sale of kilogram quantities of cocaine and methamphetamine.

02:26:15 20 THE COURT: So he was apprehended where and when here in  
21 the United States? Do you recall? Because the reason I make  
22 that point is, was he prosecuted in British Columbia?

23 MS. VAN MARTER: He was not. They were all deported.

24 THE COURT: To the country -- their country of birth.

02:26:35 25 MS. VAN MARTER: Correct.

1 THE COURT: In his case it is?

2 MS. VAN MARTER: Mexico.

3 THE COURT: And we know that he has a criminal record  
4 established for a conviction in Arizona --

02:26:46 5 MS. VAN MARTER: Correct.

6 THE COURT: -- in February of 2016 for illegal entry.

7 MS. VAN MARTER: Correct.

8 THE COURT: And then after that, was he found in the  
9 United States?

02:26:56 10 MS. VAN MARTER: He was arrested here pursuant to this  
11 indictment that came down. And I believe -- there's also  
12 indication that after the Canadian incident, he remained in  
13 Canada -- or, excuse me, in Mexico for a period of time before  
14 he unlawfully returned. I believe that was addressed at the  
02:27:21 15 time of his original detention hearing by his then girlfriend on  
16 him coming back into the United States. And as we indicated,  
17 based on our information, he continued to remain involved with  
18 the drug trafficking organization; certainly, at a minimum, of  
19 negotiating and/or being present and sent by the bosses to --

02:27:37 20 THE COURT: He wasn't arrested until '17; is that  
21 correct?

22 MS. VAN MARTER: Correct.

23 THE COURT: So the British Columbia event is in '15.  
24 He's deported to Mexico by the Canadian authorities, back in the  
02:27:49 25 United States '16 --

1 MS. VAN MARTER: Correct.

2 THE COURT: -- picks up a conviction in Arizona --

3 MS. VAN MARTER: (Nodded.)

4 THE COURT: -- and then is arrested here in the United  
02:27:58 5 States in January of '17 --

6 MS. VAN MARTER: Correct.

7 THE COURT: -- and charged with the -- as part of the  
8 conspiracy number one in the case filed in 2015.

9 MS. VAN MARTER: Correct.

02:28:09 10 THE COURT: Was that a sealed indictment for a while --

11 MS. VAN MARTER: The initial --

12 THE COURT: -- while people were picked up?

13 MS. VAN MARTER: The initial indictment only had a  
14 handful of those that were charged. There were superseding  
02:28:21 15 indictments that included additional defendants, in part because  
16 of -- that money laundering investigation was still ongoing, so  
17 we did not have a sealed indictment. We just chose to supercede  
18 with the additional co-conspirators, once that money laundering  
19 investigation was wrapped up.

02:28:36 20 THE COURT: And was that sealed as well?

21 MS. VAN MARTER: It was sealed until they were arrested,  
22 and then their name was unsealed. There are other co-defendants  
23 who were not.

24 THE COURT: Well, that seal was filed December 6th of  
02:28:48 25 '16.

1 MS. VAN MARTER: Correct.

2 THE COURT: And then he was arrested a month later,  
3 January 15th of 2017.

4 MS. VAN MARTER: Correct.

02:28:55 5 THE COURT: I just needed to get the chronology for all  
6 of us, see how it all flowed.

7 Okay. Thank you.

8 MS. VAN MARTER: And so, Your Honor, in comparison to  
9 the levels of the other co-defendants that have been sentenced  
02:29:06 10 thus far, certainly this particular defendant bears a higher  
11 level of culpability than many that have been before the Court.  
12 I would say his role is that of more than just a distributor.  
13 As indicated by the evidence, he was also placed in a position  
14 of trust to watch over, most certainly, this particular large  
02:29:22 15 load of narcotics.

16 The Court is correct; the average load into Canada from  
17 the organization was anywhere from 20 to 40 pounds, and in this  
18 particular case, more. And they needed multiple backpackers.  
19 Obviously it was a long journey; it's difficult to backpack that  
02:29:37 20 type of weight, but that was a consistent quantity.

21 I think that the United States' recommendation of 15  
22 years is more than appropriate, also taking into consideration  
23 his late plea, the difficulties in accepting responsibility. I  
24 know the Court is aware of the letter that he previously  
02:29:53 25 provided to the Court and the Court in turn provided to the

1 parties. It was somewhat difficult -- I would characterize it a  
2 little bit as a -- whether it's a misunderstanding of the law  
3 initially and later gamesmanship by the defendant, certainly the  
4 overall totality of the factual circumstances support a sentence  
02:30:12 5 of 15 years.

6 THE COURT: Give me a moment.

7 (Pause in proceedings.)

8 THE COURT: So in terms of Francisco Figueroa and  
9 Juvenal Landa, how do you compare their involvement to this  
02:30:55 10 gentleman? And they both got 120 months, or 10 years.

11 MS. VAN MARTER: Francisco Figueroa, if the Court  
12 recalls, was the uncle of Jese Casillas. He entered into this  
13 conspiracy later, as soon as Mr. Casillas' status arose, or at  
14 least rose after Mr. Calvillo's death.

02:31:13 15 Mr. Figueroa, for lack of a better term, was an errand  
16 boy to Mr. Casillas. He would make deliveries, he would collect  
17 money, but I would argue that his scope of knowledge as to the  
18 higher-ups and the operations of the organization were not the  
19 same as this defendant. He was also the very first person to  
02:31:31 20 come in and accept responsibility early on in the case to plead  
21 to the mandatory minimum offense. I do not believe -- I believe  
22 he had a prior cocaine arrest in Spokane County for simple  
23 possession. Other than that, had limited criminal history.

24 So based upon length of time involved, which is nowhere  
02:31:52 25 near what this defendant's involvement was, and scope of

1 knowledge, I would -- I would differentiate him in that way.

2 Juvenal Landa was a younger individual who was closer to  
3 Mr. Casillas' age and was just a distributor. He would receive  
4 pound quantities. He was caught with 2 pounds at one point; had  
02:32:10 5 his own customers, and would sell quantities of methamphetamine  
6 here in the Tri-Cities area. Again, his scope of knowledge as a  
7 distributor, not somebody responsible for shipments and/or  
8 understanding the overall scope. The line in this particular  
9 case up into Canada was not a role that Mr. Landa had.

02:32:27 10 Mr. Landa was given opportunity -- he did not have criminal  
11 history, but chose to not evade [sic] himself of any  
12 opportunities to alleviate that sentence, and also accepted  
13 responsibility early on.

14 THE COURT: What about Garibay?

02:32:43 15 MS. VAN MARTER: Garibay, as the Court is aware --

16 THE COURT: Alfredo Magana Garibay.

17 MS. VAN MARTER: Yes.

18 THE COURT: I have many cases, so you'll have to refresh  
19 me.

02:32:53 20 MS. VAN MARTER: Mr. Garibay was an individual who was  
21 identified as taking loads on the -- within Washington state  
22 from the east side to the west side; you know, 3 to 5 pounds at  
23 a time, a distributor in that regard, and then was asked to put  
24 a stash house in his name. And that stash house was then  
02:33:09 25 occupied by an individual who was another co-defendant, Veronica

1 Cortez, who was supposed to make the house look as if it were a  
2 normal residence, not for the purpose of receiving backpackers.

3 Mr. Garibay has -- his brother, which came up during the  
4 course of his sentencing, had remained in Mexico and was a close  
02:33:28 5 associate of Mr. Calvillo initially. But Mr. Garibay up here in  
6 the Eastern District of Washington, again, didn't have the same  
7 scope of knowledge. His involvement also terminated with  
8 respect to additional activities once Mr. Calvillo was killed,  
9 which was in December of 2015.

02:33:55 10 THE COURT: What was it about his letter that you think  
11 made it clear that he was guilty of Count 1?

12 MS. VAN MARTER: Your Honor, I think if -- and I don't  
13 have the translated copy in front of me. My recollection is  
14 that he does, in the letter, admit to certainly the backpacking  
02:34:12 15 trip. I think that was a basis that the Court inquired of him  
16 at the time of his change of plea, or at least the Court  
17 utilized that, in combination with the trial memorandum, to  
18 establish the factual basis for his acceptance -- or your  
19 acceptance of his guilty plea.

02:34:26 20 I don't recall all the specifics, because, again, I  
21 don't have the translated copy in front of me, but I believe, in  
22 sum, he did admit to his knowledge on that trip. And I believe  
23 he also admitted to being sent there to find out what had gone  
24 on with the debt.

02:34:55 25 THE COURT: So he's 39 years old, here illegally, having



1 been previously deported, and that's part of his profile.

2 Okay. Thank you.

3 MS. VAN MARTER: Thank you, Your Honor.

4 THE COURT: Okay. Ms. Coronado?

02:35:14 5 (Witness approached.)

6

7

SANJUANITA CORONADO,

8 having first sworn or affirmed, testified under oath as

9 follows:

02:35:25 10 THE WITNESS: Yes, I do.

11 THE COURT: Please be seated. And when you're  
12 comfortable, tell us your first and last name, and spell them  
13 both for the record.

14 THE WITNESS: SanJuanita Coronado; S-A-N-J-U-A-N-I-T-A  
02:35:42 15 C-O-R-O-N-A-D-O.

16 THE COURT: Okay. Ms. Coronado, you're employed at the  
17 probation office here in Richland.

18 THE WITNESS: I am.

19 THE COURT: In the course of your duties there, did you  
02:35:51 20 prepare the presentence report in the case of *United States v.*  
21 *Miguel Reyes Garcia*?

22 THE WITNESS: I did.

23 THE COURT: Would you tell us what your recommendations  
24 are, and making reference to the statutory criteria, the reasons  
02:36:04 25 for that recommendation.

1 THE WITNESS: Okay. My recommendation, Your Honor,  
2 after taking into consideration all the 3553(a) factors and the  
3 defendant's personal history and his involvement with this drug  
4 trafficking organization, I'm recommending a term of 180 months  
02:36:24 5 followed by five years of supervised release. This is a little  
6 bit of a variance below the applicable guideline range of  
7 188 months to --

8 THE COURT: Well, that's the bottom of the guideline  
9 range. It's 188 to 235?

02:36:38 10 THE WITNESS: Yes. Um-hmm.

11 THE COURT: So that's just over 15 years to just under  
12 20.

13 THE WITNESS: Um-hmm. Yes.

14 THE COURT: And your recommendation is 15 years exactly.

02:36:46 15 THE WITNESS: Yes. Yeah.

16 THE COURT: Okay.

17 THE WITNESS: And I took into consideration, as the  
18 Government also mentioned, the defendant's involvement with the  
19 DTO. In comparison to some of the other defendants, from the  
02:37:00 20 information obtained from confidential sources and cooperating  
21 defendants and that, it appears he was involved at least from  
22 2013 to 2017. So he had some significant ties with the DTO. He  
23 was also connected with other distributors, such as his brother,  
24 Baltazar Reyes Garcia, who was also convicted in the Western  
02:37:26 25 District of Washington. He received a sentence of 216 months.

1 The incident in Canada, I took that into  
2 consideration --

3 THE COURT: I'm sorry. Did you say his brother received  
4 a 216-month sentence?

02:37:37 5 THE WITNESS: Yes. Um-hmm.

6 I also took into consideration his involvement in the  
7 trip to Canada, in which that large quantity of drugs of  
8 methamphetamine and -- it was heroin and cocaine were located,  
9 along with the guns, and he was sent there to check for any  
02:38:03 10 remaining -- either getting money that was missing or drugs that  
11 were not sold. So that reflects that he was well established  
12 with the DTO and had that responsibility to track down that  
13 money or the drugs that were missing.

14 THE COURT: Explain that.

02:38:23 15 THE WITNESS: He -- there was apparently some drugs that  
16 were in Canada that either were not sold or were sold, and some  
17 of the money was not returned back to the organization. So from  
18 the information in discovery, he was sent with the backpackers,  
19 as the Government said, kind of to babysit; to check that the  
02:38:45 20 drugs were delivered, and, if possible, obtain the money that  
21 was missing for the prior drugs, and make sure that things got  
22 transferred accordingly and returned -- and the money returned.

23 THE COURT: What do you draw from that, based on your  
24 experience in reviewing many of these kinds of cases involving  
02:39:04 25 drug distribution and importation, what do you -- what do you

1 draw from that, the fact that he was given that responsibility?

2 THE WITNESS: Normally, from what I've seen in the  
3 different cases with drug distribution conspiracies, is that  
4 that type of responsibility is usually placed on people that are  
5 more involved, more trusted with the organization. Usually  
6 lesser involved defendants, such as the backpackers or even the  
7 ones who transport the drugs from, say, California up to  
8 Washington or Arizona up to Washington, they have less knowledge  
9 of the scope of the organization, how it works. And so when  
10 someone is tasked with the responsibility of checking -- keeping  
11 an eye on the money and the drugs and making sure the  
12 organization gets what they're supposed to get --

13 THE COURT: And you've been doing federal work now for  
14 how many years?

15 THE WITNESS: Federal? Just a little over ten years.

16 THE COURT: And in the course of your duties, have you  
17 seen -- would you give us a rough estimate of how many drug  
18 cases like this you've -- that is, drug conspiracy cases you've  
19 seen over the years?

20 THE WITNESS: Many. I couldn't give you a number.  
21 There's quite a few conspiracy cases.

22 THE COURT: Would it be dozens or hundreds or --

23 THE WITNESS: Dozens for sure.

24 THE COURT: Ten years; it wouldn't take much to get into  
25 the hundreds, would it?

1 THE WITNESS: Yes.

2 THE COURT: Okay. And so that's the basis, plus the  
3 record itself, for your belief that he had a higher level of  
4 culpability and -- as a member of the DTO?

02:40:51 5 THE WITNESS: Yes.

6 THE COURT: Okay. Thank you.

7 What else? No, there would be other things.

8 Is that it? Do you believe -- addressing the statutory  
9 factors, for example, disparate sentences, comparing it to the  
02:41:06 10 others, as the Government has done, is there any -- is it  
11 disparate to the others?

12 THE WITNESS: No, I did take that into account, and as  
13 mentioned by the Government, the other co-defendants that were  
14 mentioned, like Mr. Figueroa and Juvenal Landa Solano,  
02:41:27 15 Mr. Garibay, both got -- all three got 120 months. And then  
16 Mr. Casillas received a 25-year sentence. I do think he's more  
17 culpable than like Mr. Figueroa and Mr. Landa Solano but not --

18 THE COURT: Who received ten-year sentences.

19 THE WITNESS: Yes.

02:41:46 20 THE COURT: Okay. Ms. Van Marter, questions, if any?

21

22 EXAMINATION

23 BY MS. VAN MARTER:

24 Q Do you recall in some of the discovery materials if that --  
02:41:55 25 if his brother Balta Reyes was mentioned?

1 A He was, yes.

2 Q And do you know if in that case, do you know if that case  
3 went to trial or if that was a post-plea sentence?

4 A That I did not check into. I just obtained the sentencing  
02:42:10 5 information.

6 Q And based on your experience in some of these conspiracy  
7 cases, have you found it to be common that there are familial  
8 relationships in individuals involved in drug trafficking?

9 A Yes.

02:42:22 10 Q And did you take into consideration, then, the ties with  
11 this defendant and his brother and the west side's investigation  
12 into drug trafficking as well?

13 A Yes.

14 MS. VAN MARTER: I don't have any other questions, Your  
02:42:38 15 Honor.

16 THE COURT: When you say you took it into consideration,  
17 that's because there were -- there's some records and  
18 confidential sources that indicated there was a relationship  
19 between the two?

02:42:51 20 THE WITNESS: Yes.

21 THE COURT: Okay. So it wasn't something you pulled out  
22 of the air, but it was based on confidential informants and  
23 statements they gave about the relationship between the two  
24 brothers.

02:43:02 25 THE WITNESS: Yes.

1 THE COURT: Okay. And that was a factor. Okay.  
2 Mr. Therrien.

3

4

EXAMINATION

02:43:09

5 BY MR. THERRIEN:

6 Q A question regarding the relationship with Baltazar, his  
7 brother. I'm sorry. I know I read in -- in this -- in your  
8 final pretrial sentencing report that there was a controlled  
9 informant, in fact, who'd said they didn't -- Baltazar and  
10 Mr. Reyes didn't do business anymore because there was a falling  
11 out between them.

02:43:35

12 Do you recall that?

13 A In the report? I mean, in the --

14 Q Yes, in the report.

02:43:55

15 A I --

16 Q I'm trying to look for it.

17 THE COURT: I'm sorry, what are you looking for?

18 MR. THERRIEN: I was reviewing the report before we had  
19 this hearing, and I do remember reading that there was a  
20 controlled informant or source of information that proffered --  
21 it's my understanding that Baltazar Reyes Garcia and Miguel had  
22 a falling out, and they don't -- they didn't do -- they don't do  
23 business anymore; they weren't doing business anymore. So --

02:44:08

24 THE COURT: Well, there are several inferences from  
25 that. One, if there was a falling out, there had to be a

02:44:33

1 relationship.

2 MR. THERRIEN: Well, they're brothers. That's a  
3 relationship.

4 THE COURT: Sure. If that's your point, then by all  
5 means make it.

6 MR. THERRIEN: Well --

7 THE WITNESS: I did find that in the report here, so if  
8 I could answer?

9 In 2013 the confidential source advised --

10 BY MR. THERRIEN: (Continuing)

11 Q What paragraph is that?

12 A Oh, sorry. I lost my place.

13 Page 7, Paragraph 35. The one confidential source at that  
14 time mentioned Mr. Reyes Garcia's brother and the planning on  
15 moving back to Washington, and they had sold a ranch in Franklin  
16 County, so they were -- and then they were -- the paragraphs  
17 previous to that mentioned their connection, including obtaining  
18 cocaine and that type of thing.

19 But then in Paragraph 68, Page 13, that's where you  
20 mentioned -- it is mentioned that Miguel and Baltazar had a  
21 fight and were not doing business together. But that was  
22 January of 2016, and that would be about -- if they discontinued  
23 at that time, he was still involved with him at least between  
24 2013 and 2016.

25 Q Right. I mean, it was reported -- it looks like it was



1 reported in January of 2016, but it could have -- could have  
2 happened earlier than that.

3 A True.

4 MR. THERRIEN: I have no additional questions than that.

02:46:03 5 THE COURT: Thank you.

6 I have no further questions. Thank you for your report.  
7 You may step down.

8 Okay. Mr. Therrien, I believe this is your opportunity  
9 to address the Court.

02:46:18 10 MR. THERRIEN: Yes, Your Honor.

11 THE COURT: And I believe you have some objections to  
12 the statements in the PSIR about your client's involvement, and  
13 you recognize that it doesn't affect the ten-year mandatory  
14 minimum.

02:46:35 15 MR. THERRIEN: Right.

16 THE COURT: Okay. But he disputes the statements  
17 attributed to others regarding his extensive involvement; is  
18 that correct?

19 MR. THERRIEN: Yes, Your Honor.

02:46:48 20 THE COURT: Okay.

21 MR. THERRIEN: It's -- it's our -- it's his position  
22 that these guys are not very good informants because they  
23 don't -- they don't have their facts right. So that's basically  
24 all I could mention about that.

02:47:05 25 THE COURT: Okay. The Court's going to overrule those

1 objections. It doesn't affect sentencing in the sense that he  
2 has a ten-year mandatory minimum.

3 MR. THERRIEN: Right.

4 THE COURT: On the other hand, this is taken from the  
5 records, and it's consistent with the review conducted by the  
6 probation officer and the AUSA on the file, and those statements  
7 will remain in the record, and they will be there for  
8 consideration, though he disputes them.

9 MR. THERRIEN: I understand, Your Honor.

10 Judge, I think the three motions I have for downward  
11 variances, I think the one where, to afford adequate deterrence  
12 to criminal conduct, and I cite those cases in there, I just  
13 previously had a sentencing in front of the Court, and I used  
14 that argument in that case, and the Court indicated that --

15 THE COURT: Okay. Why don't you go over them one by one  
16 for me.

17 MR. THERRIEN: All right. Okay. Let me -- do you want  
18 me to do them chronologically first?

19 THE COURT: As you wish.

20 MR. THERRIEN: Okay. I'd like to go to the afford  
21 adequate deterrence to criminal conduct.

22 Mr. Reyes Garcia had the deportation in Arizona, the  
23 illegal re-entry. He didn't do a lot of time on that.

24 THE COURT: Well, this is in your -- your materials  
25 filed --

1 MR. THERRIEN: Right.

2 THE COURT: -- ECF 1169, right?

3 MR. THERRIEN: Yes. I'm sorry, Judge.

4 THE COURT: Okay. So what pages on that should we look  
02:48:41 5 at? I guess it's Page --

6 MR. THERRIEN: Page 4 of 6.

7 THE COURT: -- 4?

8 Right. Okay. Thank you.

9 And this is where you argue that a lesser sentence is  
02:48:47 10 appropriate in this case.

11 MR. THERRIEN: Right. Right. And I don't have anything  
12 to add to that. I made this argument before, just recently  
13 before the Court, and the Court sort of indicated to me, or  
14 pointed out to me that these decisions were by the same judge  
02:49:04 15 out of the Eastern District of Washington. I think I probably  
16 made that argument last week, so -- but I still think it applies  
17 towards --

18 THE COURT: Eastern District of Wisconsin?

19 MR. THERRIEN: Wisconsin. I'm sorry, did I say  
02:49:19 20 "Washington"? I'm sorry, Judge.

21 THE COURT: Okay. And then what about the -- and then  
22 the vocational/educational opportunities you've talked about as  
23 a noncitizen inmate --

24 MR. THERRIEN: Correct.

02:49:31 25 THE COURT: -- and the scarcity of those, if not the

1 absolute --

2 MR. THERRIEN: Right.

3 THE COURT: -- deprivation -- or the absence of those.

4 And then unwarranted sentencing disparities. And so if you want

02:49:44 5 to make more of a record on that, that means how does he compare

6 to the others whom I've sentenced. And we've gone over that,

7 both with Ms. Coronado and Ms. Van Marter, about the other

8 sentences at 120 months, and then Casillas Carillo at 25 years.

9 And so I'm happy to hear you out on what else you think is a

02:50:08 10 disparity.

11 MR. THERRIEN: Well, other than, I think, Mr. Reyes

12 Garcia's involvement in this case, from his -- his point of

13 view, has been exaggerated by the controlled informants.

14 If the Court recalls, in one of the pretrial conferences

02:50:35 15 we had, we filed a bill of particulars and -- specifically to

16 ask the Government what role did Mr. Reyes Garcia play in the

17 Calvillo drug -- or now the Casillas drug trafficking

18 organization, and it was one as a transporter. And -- and we

19 took that as meaning that he used -- he used that line up in

02:51:05 20 from -- through Washington to Canada to transport drugs and

21 certainly for -- they're saying for the Calvillo or Casillas

22 drug trafficking organization.

23 It's always been his position that it was for somebody

24 else. I don't know how much difference that makes in terms of

02:51:32 25 the -- the amount of drugs involved in that, that are attributed

1 to him, but that's -- that's something we would like to point  
2 out. I don't think he's any more -- you know, other than the  
3 controlled informants or cooperating defendants are saying  
4 how -- how involved he was, I don't think there's anything other  
02:51:56 5 than the historical statements that they make about him to  
6 indicate that he was.

7 I mean, he was -- he was arrested in Canada and  
8 released, and I think they all were released because they --  
9 they didn't want them to interfere with the ongoing drug  
02:52:18 10 conspiracy or drug investigation in that case. That's why they  
11 were released out of Canada. To prosecute it there would have  
12 basically shut down the operation that they were -- that the  
13 Government was involved with, or a substantial part of that. So  
14 I think that was part of why they were released.

02:52:40 15 But I really don't have anything other than that in  
16 terms of the disparity argument.

17 THE COURT: Okay.

18 MR. THERRIEN: Promote respect for the law, I already  
19 covered that.

02:52:56 20 Regarding his children, the -- he has -- his family is  
21 here. It's reported -- or his family history is reported in the  
22 PSIR.

23 THE COURT: I'm looking at it right now.

24 MR. THERRIEN: But I had my investigator contact Ms. Ana  
02:53:20 25 Valencia, and she's here with their children; she's in the back

1 here with his family.

2 THE COURT: Okay.

3 MR. THERRIEN: And I'd like to read the report, and I  
4 just found -- I didn't provide a copy of it, but you can -- you  
02:53:33 5 can review that. It's just a --

6 THE COURT: You talked to counsel but not for the  
7 record. If you need to talk to her --

8 (Counsel conferring.)

9 MR. THERRIEN: All right. Okay.

02:53:56 10 And I'd just like to read it into the record, Your  
11 Honor.

12 THE COURT: Any objections?

13 MS. VAN MARTER: No, Your Honor.

14 THE COURT: Go ahead.

02:54:02 15 MR. THERRIEN: This is a report by Abel Campos from  
16 Premier Investigations, LLC. He contacted Ana Valencia. They  
17 have three children together. They have Ariana Valencia, date  
18 of birth -- well, she's 11 years old. They have --

19 THE COURT: She's one of two twins, isn't she?

02:54:25 20 MR. THERRIEN: Yes.

21 THE COURT: Ariana and Iani.

22 MR. THERRIEN: Iani and --

23 THE COURT: Age 11, and then Daniel age 9.

24 MR. THERRIEN: Right.

02:54:34 25 And he says (reading): On March 1st, 2019, I made

1 contact with Ana Valencia in reference to Miguel Reyes Garcia.  
2 Ana said the following: That she and Miguel Reyes were together  
3 for about 2005 to 2011 where they lived in Pasco --

4 THE COURT: Take your time. It's one thing to read it.  
5 It's another thing for the court reporter to take it down.

6 MR. THERRIEN: All right. I'll slow down, Judge.  
7 Sorry.

8 (Reading); Ana said they have three kids together named  
9 Ariana, Iani, and Daniel. Ana said Miguel Reyes Garcia is a  
10 loving partner and a loving father. She said he still calls the  
11 children to speak with them, when he has money to make phone  
12 calls. Ana said Mr. Garcia has always been involved in the  
13 children's lives. She said all three children play soccer, and  
14 Mr. Garcia would take the kids to the park to practice with  
15 them. She said Mr. Garcia would attend all the games, would  
16 also try to help them with their homework. Ana said Mr. Garcia  
17 worked out in the fields and -- and has always been a good  
18 worker. She said he would send his parents in Mexico money  
19 from -- from what he made to help them out. Ana said they never  
20 had problems in their relationship, and it ended in good terms.  
21 She said Mr. Garcia was still involved with his children and  
22 would pick them up and take them for the weekends and spend time  
23 with them by taking them to the park or to feed the farm  
24 animals. And he's indicated Ana Valencia had nothing but  
25 positive things to say about Mr. Garcia.

1 THE COURT: So he has six children or seven children?  
2 Seven children. Seven children by -- four with Ms. Lopez and  
3 three with Ms. Valencia, as I read it.

4 MR. THERRIEN: Yes.

02:56:39 5 THE COURT: And those ages are 16, 14, 11, 9, 9, and 8.

6 MR. THERRIEN: Yes, Judge.

7 THE COURT: Okay. So 16, 14, 9, and 8 are the ages of  
8 the children with Ms. Lopez, and 11 and 9 are the ages of the  
9 children with Ms. Valencia, including the twins; is that  
02:57:02 10 correct?

11 MR. THERRIEN: That's correct, Your Honor.

12 THE COURT: Okay.

13 MR. THERRIEN: Judge, we're here to ask for -- for  
14 Mr. Reyes Garcia a sentence of ten years. We think that would  
02:57:20 15 be a sufficient but not greater than necessary sentence under  
16 the guidelines, considering his involvement in the case. And we  
17 would probably be asking for whatever sentence he receives, he  
18 would be allowed to do that in Sheridan, Oregon.

19 THE COURT: Okay. A request for Sheridan, I grant that,  
02:57:41 20 or at least I will make a recommendation to the BOP, which has  
21 the authority to decide it.

22 And I'm assuming, since you haven't indicated it, that  
23 no one wishes to speak.

24 MR. THERRIEN: Does anybody --  
02:57:52 25 (Counsel conferring.)



1 MR. THERRIEN: No. I talked to them beforehand.

2 THE COURT: Okay.

3 MR. THERRIEN: That's all I have, Judge.

4 THE COURT: Okay. If you'll come to the podium, please.

02:58:17 5 Mr. Reyes Garcia, this is your opportunity to speak  
6 directly to the Court. You have the right to speak, but you're  
7 not required to speak. If you wish to make some statements that  
8 you want me to consider before I actually impose sentence, this  
9 would be the time to do so.

02:58:49 10 THE DEFENDANT (through the interpreter): What I wanted  
11 to say is if all those people who are accusing me, if they saw  
12 the discovery that they have against me. And they're making me  
13 out to be like I'm this big drug dealer, drug trafficker when I  
14 am not. If they're going to accuse me, and I'm going to get all  
02:59:22 15 of these years in jail, then show me the evidence.

16 They said I trafficked with Calvillo, Casillas, or  
17 whatever. I don't even know Casillas. They said I also worked  
18 with Ivan, when I never actually worked with Ivan. Those  
19 informants who they're saying that they know me, I don't know  
02:59:59 20 who they are. I've never seen them because we've never seen  
21 each other. We don't know each other.

22 I -- I did go to Canada. It was the first time I went  
23 there, and I was not in charge of anything. I didn't even know  
24 the way that we were supposed to take, and I had to pay  
03:00:28 25 attention when we were in the vehicle. And if you listen to

1 what was happening in the car, one of the backpackers asked me,  
2 help us out so we could do it quickly, and that's all I did.

3 What I'm asking is for more investigation into this.  
4 They're saying that I've been selling drugs since 2013. I want  
03:00:58 5 you to look into where was I in 2013.

6 Respectfully, towards the FBI, if I did this, where is  
7 my wealth? Where is all of the money that I made doing this?

8 I made a mistake, yes. I did it; I went to Canada. If  
9 they say that I was a drug trafficker for all these years, then  
03:01:32 10 show me the proof.

11 That's all I have to say.

12 THE COURT: Well, a difficult case for you and your  
13 family, Mr. Reyes Garcia, your children, and the people with  
14 whom you've had children, the two women. Always a very  
03:01:56 15 difficult time for the families when they sit in a courtroom and  
16 listen to the fact that somebody they love has been part of an  
17 organization that has distributed a large amount of drugs, and  
18 the distribution of which has ruined the lives of other families  
19 and other daughters and spouses or significant others who are  
03:02:21 20 deprived of their relationships because of the addiction, and  
21 then oftentimes addiction that led to drug crimes to cover the  
22 cost of their addiction.

23 Here, you're a Base Offense Level 38, minus two for  
24 acceptance of responsibility, which applies, despite the fact  
03:02:51 25 that you didn't plead until the day of trial, and that gives you

1 an offense level of 36, with a Criminal History Category of I,  
2 because in 2016 in February you illegally entered the United  
3 States and were given 30 days in prison in Arizona at age 36.

4 The maximum penalties are a statutory ten years to life.

03:03:17 5 Under the advisory guidelines, as a category of Total Offense  
6 Level 36, Criminal History Category I, the range of imprisonment  
7 is just a little more than 15 years, 188 months, up to just a  
8 little less than 20 years, 235 months. You're not eligible for  
9 probation. The guideline fine range is \$40,000 to \$10 million.

03:03:44 10 The guideline supervision range is five years to life. There is  
11 a special penalty assessment of \$100. Because of the kind of  
12 crime you committed under -- that you pled guilty to, you're no  
13 longer eligible for Part A, Title IV Social Security benefits,  
14 Temporary Assistance For Needy Families, or food stamp program  
03:04:09 15 benefits under the Food Stamp Act.

16 Under the 21, United States Code, Section 862, the Court  
17 denies you eligibility for any other federal benefits such as  
18 federal contracts, grants, loans, professional, or commercial  
19 licenses under that 21, United States Code, Section 862(b), and  
03:04:36 20 there is -- and the Court will continue with this.

21 This is a very comprehensive case. For a long period of  
22 time you were a participant in a drug trafficking organization  
23 in Eastern Washington, substantially involved in the  
24 transportation -- you were involved in, even if you personally  
03:04:58 25 didn't carry them, in the transportation of large quantities of

1 drugs over the Canadian border.

2 You have a limited criminal history. Seven children by  
3 two women; you are a citizen of Mexico; your children are  
4 citizens of the United States.

03:05:16 5 Your range for imprisonment is a minimum of ten years up  
6 to life imprisonment for Count 1. You must be supervised for at  
7 least five years. You're not eligible for probation. And  
8 it's -- the Court finds that you lack the resources to pay a  
9 fine.

03:05:36 10 And I find your question of where's all the money if I  
11 was drug dealing is a question that I ask in every drug dealing  
12 case when I have people just like yourselves who are given  
13 appointment of CJA attorneys for free who have been dealing in  
14 pound quantities of a number of different drugs over a number of  
03:05:58 15 different months or years, and always claim to have no resources  
16 of any kind or nature. And so I share your concerns of where's  
17 the money.

18 The answer is they don't have to prove that you actually  
19 have money. They don't have to prove that you actually have it  
03:06:16 20 and found the place where you may have hidden it or a bank where  
21 you put it under another name. That's not something that the  
22 Government has to prove. It's sufficient that they prove the  
23 quantities.

24 And here there were significant quantities of drugs as  
03:06:30 25 part of this conspiracy. And the conspiracy involved 500 grams

03:07:00 1 or more of a mixture or substance containing a detectable amount  
2 of methamphetamine, 5 kilograms or more of cocaine, a kilogram  
3 or more of heroin, and 400 grams or more of fentanyl. All of  
4 those drugs are addictive and cause untold economic and social  
5 harm to people living in the United States.

6 The question is whether or not I should depart from the  
7 guideline range of 188 to 235 months; and if so, why.

03:07:30 8 This was a serious case, involving widespread  
9 distribution of drugs, that harmed countless people by virtue of  
10 their addictions, and has social and economic costs to the  
11 people in the United States that are enormous. That is, it's  
12 damaged a lot of people and a lot of families.

03:07:53 13 The sentence I impose must promote respect for the law  
14 and adequately deter you from other criminal activities and  
15 protect the public.

03:08:14 16 These are strict cases, and Congress has seen fit -- the  
17 United States Congress has seen fit to tell the world that the  
18 damage to the people of the United States from this kind of drug  
19 trafficking organization is so great that a severe penalty is  
20 necessary. So the Court here is looking at the question of how  
21 many months is sufficient.

03:08:35 22 I do this by also looking at the sentences given to  
23 others who have been part of the conspiracy, and I note that at  
24 least two have received 120 months -- that's ten years -- that  
25 are significantly less involved than you are.

1 Here, the Court has listened to you carefully on a  
2 number of occasions, and believes that your approach to this  
3 case is still a bit puzzling to this Court, since your  
4 fingerprints were on it, on the drugs in large quantities; you  
03:08:55 5 were there as a person of some responsibility to check on money  
6 that was owed to the drug trafficking organization.

7 And the probation officer and U.S. Attorney are quite  
8 right: that is never given to a lowly member of the  
9 organization; only given to people that are trusted by the drug  
03:09:15 10 trafficking organization. And as a result, the Court believes  
11 that the sentencing recommendations of 180 months by the  
12 Government and the Probation office -- and having considered the  
13 statutory factors, including the sentencing guidelines, the  
14 Court will grant a variance from the low end of the guidelines  
03:09:33 15 of 188 months down to 180 months, and imposes a sentence of  
16 180 months of imprisonment; five years supervised release on  
17 standard as well as special conditions; no fine because you lack  
18 the resources to pay it; and a \$100 special penalty assessment.

19 The special conditions are you are prohibited from  
03:09:59 20 returning to the United States without the advance legal  
21 permission from the United States Attorney General, or his  
22 designee. Should you re-enter the United States, you're  
23 required to report to the Probation Office within 72 hours of  
24 re-entry. You must not communicate, associate, or otherwise  
03:10:16 25 interact with any witnesses or co-defendants in this case

1 without first obtaining the permission of the probation officer.  
2 Three, you'll submit your person, office, residence, car, and  
3 belongings to a search conducted by a probation officer at a  
4 sensible time and manner, based upon reasonable suspicion of  
03:10:36 5 contraband, or evidence of a violation of supervised release,  
6 and failure to do so may be grounds for revocation. You'll warn  
7 people you live with of this condition.

8 You must abstain from the use of illegal controlled  
9 substances, submitting to testing, including urinalysis and  
03:10:54 10 sweat patch testing, as directed by your supervising officer up  
11 to but no more than six times per month to confirm your  
12 continued abstinence from illegal substances.

13 The Court will recommend Sheridan, Oregon.

14 Give me a moment.

03:11:12 15 (Pause in proceedings.)

16 THE COURT: Did you say Sheridan, Mr. Therrien?

17 MR. THERRIEN: I did. I just want to make sure that's  
18 the closest to his family.

19 Can you ask him?

03:11:27 20 (Interpreter and defendant conferring.)

21 MR. THERRIEN: Yes, the request is for Sheridan.

22 THE COURT: The Court recommends Sheridan, Oregon.

23 Mr. Reyes Garcia, you have a right to appeal your  
24 judgment of conviction and sentence, as does every defendant who  
03:11:47 25 has, in your circumstances, pled without a plea agreement. If

1 you cannot afford an attorney, one will be appointed at no  
2 expense to yourself to assist you with that appeal.

3 You must file that appeal within 14 days from today --  
4 well, it won't be today. It will probably be tomorrow -- well,  
03:12:10 5 14 days from the time that I sign the judgment of conviction and  
6 sentence. That might take a day or two, maybe a little bit  
7 more. And you must file it within that period of time by filing  
8 a simple notice of appeal. Mr. Therrien will explain that to  
9 you.

03:12:27 10 Mr. Therrien, if he decides to appeal, will you seek to  
11 withdraw or to seek appointment?

12 MR. THERRIEN: I will seek to withdraw.

13 THE COURT: Okay. Well, file your motion to withdraw,  
14 and I will grant that.

03:12:39 15 MR. THERRIEN: Okay.

16 THE COURT: That means that if someone is going to  
17 represent you on appeal, Mr. Reyes Garcia, it will be a  
18 different lawyer. Mr. Therrien declines to represent you on  
19 appeal, and others -- and other lawyers oftentimes take appeals,  
03:12:57 20 appeals to the Ninth Circuit.

21 And so is there anything further that I need to discuss  
22 before we conclude?

23 MS. VAN MARTER: Not from --

24 THE COURT: Any other motions of some sort? Any other  
03:13:06 25 counts, or was he only on Count 1?



1 MS. VAN MARTER: He was only on that count, Your Honor.

2 THE COURT: On Count 1.

3 MR. THERRIEN: Nothing else.

4 THE COURT: I believe that completes matters for today.

03:13:14 5 Mr. Reyes Garcia, it's a difficult time for you and your  
6 children and the people who care greatly about you, and I hope  
7 in the future that you'll be again part of their lives, after  
8 you've served your sentence.

9 With that, the Court is adjourned. You may go about  
03:13:27 10 your business.

11 (Hearing concluded at 3:13 p.m.)

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C E R T I F I C A T E

I, KIMBERLY J. ALLEN, do hereby certify:

That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Richland, Washington;

That the foregoing proceedings were taken on the date and at the time and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 29th day of April, 2019.



Kimberly J. Allen, CRR, RMR, RPR, CCR(WA)  
Washington CCR No. 2758  
Official Court Reporter  
Richland, Washington